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Jay M. Sanders, Patent Attorney

TERMINAL DISCLAIMER  
Patent Application  
Examining Group 1653  
Docket No. MA-43CDF2D3  
Serial No. 09/837,961  
Confirmation No. 2884

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Gabriele E. Bugaisky  
Art Unit : 1653  
Applicant(s) : Jewel Payne, August J. Sick  
Serial No. : 09/837,961  
Conf. No. : 2884  
Filed : April 19, 2001  
For : Novel *Bacillus thuringiensis* Isolate Active Against Lepidopteran Pests, and Genes Encoding Novel Lepidopteran-Active Toxins

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TERMINAL DISCLAIMER

Sir:

Petitioner, Mycogen Corporation, is the owner of the entire interest in and to the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of any patent granted on the above-identified application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to grant, of U.S. Patent No. 5,188,960, and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent be the same as the legal title to the above-referenced patents, this agreement to run with

any patent granted on the above-identified application and to be binding on the grantee, its successors or assigns.

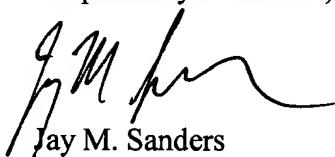
In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of the above-listed application in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, if found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer filed prior to the grant of the patent.

The undersigned has reviewed all the evidentiary documents accompanying or referred to in the instant Terminal Disclaimer and it is certified that, to the best of the undersigned's knowledge and belief, title is in the Petitioner identified above.

The undersigned is the attorney of record.

I authorize you to charge the amount of \$110.00 to Deposit Account No. 19-0065.

Respectfully submitted,



Jay M. Sanders

Patent Attorney

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Attachments: Response Under 37 CFR §1.111

Substitute Sequence Listing on paper (32 pages)

Substitute Sequence Listing in Computer Readable Format (disk)

Statement regarding Substitute Sequence Listing

Höfte *et al.* (1989) reference